

DECLARATION UNDER 37 CFR 1.132	Application #	09/820,531
	Filing Date	March 31, 2000
	First Inventor	Eugenia Wang
	Art Unit	1634
	Examiner	Bradley Sisson
	Docket #	UNLV 1010

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

S I R:

1. I, Eugenia Wang, Ph.D. am the inventor in the above-identified application. I am also an inventor or co-inventor of numerous other patent applications and patents. Further I have authored many technical papers in technologies related to the above-identified application. Therefore, I am well versed in the art to which the invention relates and can speak to what would be understood by one of ordinary skill in the art.

2. I have read the Office Action and am fully familiar with the present patent application in which all pending claims include the following language: "A method for screening for genes whose expression is altered by disease, age, or exogenous agent, comprising: screening a sample microarray comprising genes...exposed to the disease, age or exogenous agent,...and comparing the expression of the genes to expression of control genes ... not exposed to the disease, age or exogenous agent."

3. The Office Action alleges that the claims encompass the non-exposure of control genes to any disease, age or exogenous agent and the aspect of not exposing a control gene to age has been construed as encompassing one suspending time or one eliminating air, light, temperature, pressure, gravity, etc. from the control genes.

4. Based on the allegation that the claims encompass the ability to suspend time and create conditions to eliminate exposure to any and all exogenous agents, the Office Action alleges that the claims are not allowable because: (a) the written description requirement is not met because the application does not provide a description of how to suspend time or block any and all exogenous agents; (b) the enablement requirement is not met because the unpredictable nature of suspending time or blocking any and all exogenous agents requires greater levels of enablement and the application does not provide a description of how to suspend time or block any and all exogenous agents in such a way as to enable one skill in the art to make or use the invention; and (c) the utility requirement is not met because the invention is inoperable because one cannot suspend time or block any and all exogenous agents.

5. It would be clear to one of ordinary skill in the art, based on the present specification, that the method including: "screening a sample microarray comprising genes ... exposed to the disease, age or exogenous agent...; and comparing the expression of the genes to expression of control genes ... not exposed to the disease, age or exogenous agent," does not encompass suspending or creating create conditions to eliminate exposure to *any and all* exogenous agents; rather, the non-exposure of the control genes is relative to the exposure of the genes of the sample microarray. One of ordinary skill in the art would readily understand that "comparing" genes of a sample microarray to "control genes...not exposed to the disease, age or exogenous agent" involves would mean that the control genes are not exposed to the disease, age or exogenous agent to which the sample microarray genes are exposed.

6. It would be clear to one of ordinary skill in the art, based on the present specification, that the claimed method is useful for identifying genes whose expression is

altered by disease, age, or exogenous agents of interest. Correlating changes in gene expression with a disease, age, or exogenous agents of interest allow for diagnosis and assessment of potential treatments.

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 USC §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

August 22, 2005 Eugenia Wang
Dated Eugenia Wang (Signature)